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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,321	12/03/2003	Oliver Keren Ban	AUS920030787US1	6222
82531	7590	12/22/2010		
Lieberman & Brandsdorfer, LLC				
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Gaithersburg, MD 20878				
EXAMINER				
SIKRI, ANISH				
ART UNIT		PAPER NUMBER		
2443				
MAIL DATE		DELIVERY MODE		
12/22/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/727,321

Applicant(s)

BAN, OLIVER KEREN

Examiner

ANISH SIKRI

Art Unit

2443

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-845)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-15 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant has stated in Claim 1, "stripping a payload from a broadcasting router, wherein each packet in group of broadcasting packets associated with a specific payload has identical payloads and different headers", and Claim 6 "a manager to associate a payload of each broadcasting packet with a set of symbols and to store said set of symbols in a broadcasting packet header"

There is no support for group of broadcasting packets associated with specific payload which has identical payloads and different headers" in the specification. Nor there is any support for the use of a manager performing the following functions "a manager to associate a payload of each broadcasting packet with a set of symbols and to store said set of symbols in a broadcasting packet header".

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 11-15 are rejected under 35 USC 101 since the claims are directed to non-statutory subject matter. Claim(s) 11-15 recite an article comprising a computer-readable storage medium which appear to cover both transitory and non-transitory embodiments. The United States Patent and Trademark Office (USPTO) is required to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. *See In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals *per se* in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent. *See* MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal *per se*, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. *See In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not

directed to statutory subject matter) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101*, Aug. 24, 2009; p. 2.

The Examiner suggests that the Applicant add the limitation "non-transitory" or "memory" or "hardware" etc to the computer-readable medium as recited in the claim(s) in order to properly render the claim(s) in statutory form in view of their broadest reasonable interpretation in light of the originally filed specification. The Examiner also suggests that the specification may be amended to include the term for example "non-transitory computer readable medium" to avoid a potential objection to the specification for a lack of antecedent basis of the claimed terminology.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Newson et al (US Pat 6904059) hereafter known as Newson, view of Yoshida et al (US Pub 2002/0075894) hereafter known as Yoshida, further in view of Simonson et al (US Pat 7,221,660) hereafter known as Simonson.

Consider independent **Claims 11, 1, and 6** Newson discloses an article comprising a computer readable storage medium including computer readable instructions (Newson, Col 12 Lines 55-60, Newson discloses the use of non-transitory memory), instructions for stripping a payload from a broadcasting packet at a receiving router (Newson, Col 4 Lines 5-9, Col 5 Lines 5-10), wherein all broadcasting packets have identical payloads and different headers (Newson, Col 4 Lines 55-58, Newson disclosed that the packets can be of any protocol including variable length and fixed length packets and protocol uses can incorporate broadcast/unicast/multicast types of packets); instructions for

storing the payload local to the receiving router (Newson, Col 4 Lines 64-66, Newson discloses that the packets are assembled on the router side, and it is common in the art to see that payload and headers can be stored in the router's buffer memory, further support can be seen by using the jitter buffer for example in Newson, Col 5 Lines 25-28); and instructions for attaching the broadcasting payload stored local to the receiving router to each header arriving at the receiving router separately from the broadcasting payload (Newson, Col 5 Lines 1-11, Newson discloses on how new packets are created with the collected and extracted payload from prior packets).

Newson does not explicitly disclose instructions for transmitting headers for each of the broadcasting packets from a sending router to the receiving router.

Nonetheless, Yoshida discloses the instructions for transmitting headers for each of the broadcasting packets from a sending router to the receiving router (Yoshida, [0019], Yoshida can send empty packets containing an empty payload, by just having the header information only).

Both Newson-Yoshida provide features related to packet disassembly/assembly. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore, it would have been obvious of ordinary skill in the art at the time of the invention was made to incorporate the use of an network routing system involving transmission of headers, taught by Yoshida, in the system of Newson for the purpose of having the efficient network routing system.

Newson-Yoshida does not explicitly state the use of having each packet in a group, which is associated with a specific payload.

Nonetheless, Simonson discloses the use of having each packet in a group, which is associated with a specific payload (Simonson, Col 6 Lines 28-31, Simonson discloses the use of IGMP to send packets in groups).

Both Newson-Yoshida-Simonson provide features related to packet management. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore, it would have been obvious of ordinary skill in the art at the time of the invention was made to incorporate the use of sending packets in groups, taught by Simonson, in the system of Newson-Yoshida for the purpose of having the efficient network routing system.

Both Newson-Yoshida do not explicitly state the features relating to a manager to associate a payload of each broadcasting packet with set of symbols and to store said set of symbols in a broadcasting header.

Nonetheless, Simonson states the features relating to a manager to associate a payload of each broadcasting packet with set of symbols and to store said set of symbols in a broadcasting header (Simonson, Col 6 Lines 50-65, Simonson discloses on how packets are managed in the network).

Both Newson-Yoshida-Simonson provide features related to packet management. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

Therefore, it would have been obvious of ordinary skill in the art at the time of the invention was made to incorporate the use of managing packets, taught by Simonson, in the system of Newson-Yoshida for the purpose of having the efficient network routing system.

Note: (The combination of Newson-Yoshida-Simonson, allows the Examiner to interpret the applicant invention as follows: Newson discloses the ability to strip broadcast packets into headers and payloads and the combining the collected payload with new headers which are taught by Yoshida arriving at the router, the new headers will also get stripped but since they contain no payload, the new headers can be attached to the collected payload to make new packets which then get transmitted to the network. Simonson discloses on how to manage packets, and how packets can be sent in groups via IGMP protocol).

Consider **Claim 12, 2, 7** Newson-Yoshida-Simonson discloses the system of claim 11 further comprising reducing broadcasting packet to header information (Yoshida, [0019], Yoshida can send empty packets containing an empty payload, by just having the header information only). Claim 2 includes a method with limitations that are

substantially similar to the limitations of claim 12. Claim 7 includes a method claim involving distribution of documents in the network with network packets limitations that substantially similar to limitations of Claim 12.

Consider **Claim 13, 3, 8** Newson-Yoshida-Simonson discloses the article of claim 12 further comprising instructions for relaying the broadcasting payload to a destination router according to its address to form the full broadcasting packet (Newson, Col 5 Lines 1-11, Newson discloses on how new packets are created with the collected and extracted payload from prior packet/header information). Claim 3 includes a method with limitations that are substantially similar to the limitations of claim 13. Claim 8 includes a method claim involving distribution of documents in the network with network packets and the limitations that substantially similar to limitations of Claim 13.

Consider **Claim 14, 4, 9**, Newson-Yoshida-Simonson discloses the computer readable medium of claim 13 wherein said document distribution system is an electronic mail distribution system associated with electronic mail sources (Newson, Col 4 Lines 55-58, Newson discloses that email, or webpage documents can be transmitted by the system). Claim 4 includes a method with limitations that are substantially similar to the limitations of claim 14. Claim 9 includes a method claim involving distribution of documents in the network with network packets limitations that substantially similar to limitations of Claim 14.

Consider **Claim 15, 5, 10** Newson-Yoshida-Simonson discloses the article of claim 13 wherein; said broadcasting payloads are digitized packets (Newson, Col 4 Lines 55-58, Newson disclosed that the packets can be of any protocol including variable length and fixed length packets and protocol uses can incorporate broadcast/unicast/multicast types of packets); and said network distribution system is a network server system (Newson, Col 4 Lines 55-58, Newson discloses that network distribution system which transmit email, webpage, audio etc data). Claim 5 includes a method with limitations that are substantially similar to the limitations of claim 15. Claim 10 includes a method claim involving distribution of documents in the network with network packets limitations that substantially similar to limitations of Claim 15.

Response to Arguments

Applicant's arguments with respect to claims filed on 11/30/10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH SIKRI whose telephone number is 571-270-1783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Anish Sikri
a.s.

12/15/10

/PHUOC NGUYEN/

Primary Examiner, Art Unit 2443